



Control Number: 48785



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OPEN MEETING COVER SHEET

COMMISSIONER MEMORANDUM

MEETING DATE: May 23, 2019

DATE DELIVERED: May 23, 2019

AGENDA ITEM NO.: 9

CAPTION: Docket No. 48785; SOAH Docket No. 473-19-1265 - Joint Application of Oncor Electric Delivery Company, LLC and AEP Texas Inc. to Amend Certificates of Convenience and Necessity for a Double Circuit 345-kV Transmission Line in Pecos, Reeves, and Ward Counties (Sand Lake-Solstice CCN)

DESCRIPTION: Chairman Walker's Memorandum

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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

Public Utility Commission of Texas

TO: Chairman DeAnn T. Walker
Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

All Parties of Record (*via electronic transmission*)

FROM: Alex Pine **AP**
Commission Advising

RE: Docket No. 48785; SOAH Docket No. 473-19-1265, *Joint Application of Oncor Electric Delivery Company LLC and AEP Texas Inc. to Amend Certificates of Convenience and Necessity for a Double-Circuit 345-kV Transmission Line in Pecos, Reeves, and Ward Counties (Sand Lake – Solstice CCN)* May 23, 2019 Open Meeting, Item No. 9

DATE: May 23, 2019

Please find enclosed a memorandum by Chairman Walker regarding the above-referenced docket. No other commissioner will file a memorandum in this docket.

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Public Utility Commission of Texas

Memorandum

TO: Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin

FROM: Chairman DeAnn T. Walker *DTW*

DATE: May 23, 2019

RE: Open Meeting of May 23, 2019 – Agenda Item No. 9
Docket No. 48785 – SOAH Docket No. 473-19-1265 – *Joint Application of Oncor Electric Delivery Company LLC and AEP Texas Inc. to Amend Certificates of Convenience and Necessity for a Double-Circuit 345-kV Transmission Line in Pecos, Reeves, and Ward Counties (Sand Lake – Solstice CCN)*

Although oral argument was granted in this proceeding, I am proposing changes to the order that I believe should be made no matter which route is chosen. Also, in order to issue an order, Oncor and AEP need to provide the terminating point in the project for the ownership of the transmission facilities.

Findings of Fact

Two headings in the order should be reworded. First, the heading entitled “Texas Parks and Wildlife Departments’ Comments and Recommendations” on page 55 should be modified to “Texas Parks and Wildlife Departments’ Comments and Other Environmental Recommendations” to be more accurate. The heading entitled “Conditional Authority” should be modified to “Limitation of Authority” for consistency with previous orders and accuracy.

Finding of fact 30 should be modified for clarity.

30. On March 19, 2019, Plains Pipeline filed a ~~report stating that~~ response to SOAH Order No. 11 in which it agreed to the relocation of Link B2 ~~to follow the west side of the ROW shown on the maps.~~

Finding of fact 157 should be modified for accuracy and to comport with recent orders of the Commission.

157. Under 16 TAC § 25.102(a), the Commission ~~rule 16 TAC § 25.102(a) states that the "commission~~ may grant a certificate for the construction of generating or transmission facilities within the coastal boundary ~~as defined in 31 TAC § 503.1~~ only when it finds that the proposed facilities are consistent with the applicable goals and policies of the Coastal Management Program ~~specified in 31 TAC § 501.14(a), or that the proposed facilities will not have any direct and significant impacts on any of the applicable coastal natural resource areas specified in 31 TAC § 503.1(b)."~~

Conclusions of Law

The Commission should add the following conclusion of law because it is necessary under the Public Utility Regulatory Act and Commission rules, which should also contain a footnote reference to Docket No. 48787.

- 3A. PURA § 37.0541 required the consolidation of this proceeding (the application to amend Oncor's and AEP Texas' CCNs for construction of the Sand Lake-to-Solstice transmission line) with a separate proceeding (the application in Docket No. 48787 to amend LCRA's and AEP Texas' CCNs for construction of the Bakersfield-to-Solstice transmission line) because the two lines share a common point of intersection.

Conclusion of law 7 should be modified for accuracy.

7. Additional notice of the modified routes is not required under 16 TAC § 22.52(a)(3)(C). Oncor and AEP Texas are required to provide notice under 16 TAC § 22.52(a)(6).

Conclusion of law 9 should be modified for accuracy and consistency with previous orders.

9. The Sand Lake-to-Solstice Project using route 320, with a modification to link B2, is necessary for the service, accommodation, convenience, or safety of the public within the meaning of PURA § 37.056(a).

Conclusion of law 11 should be deleted and the language moved to a new finding of fact 144A because it is not a proper conclusion of law.

Conclusion of law 15 should be deleted because it is not a proper conclusion of law, and it is not consistent with recent Commission orders.

15. ~~[Deleted]Route 320, with a modification to link B2, complies with PURA § 37.056(c)(4) and 16 TAC § 25.101, including the Commission's policy of prudent avoidance, to the extent reasonable to moderate the impact on the affected community and landowners.~~

Ordering Paragraphs

Ordering paragraph 8 should be modified to reflect the standard language that the Commission has adopted in recent orders.

8. Oncor and AEP Texas ~~The Applicants~~ must exercise extreme care to avoid affecting non-targeted vegetation or animal life when using chemical herbicides to control vegetation within rights-of-way ~~the ROW~~. Oncor and AEP Texas must ensure that the use of chemical Hherbicides to control vegetation within the rights-of-way complies with the use ~~must comply with~~ rules and guidelines established in the Federal Insecticide, Fungicide, and Rodenticide Act and with Texas Department of Agriculture regulations.

Because the location of this transmission line is in an area with substantial and highly concentrated oil and gas production in the Permian Basin, I propose adding the following ordering paragraph to give Oncor and AEP more flexibility in routing this transmission line.

As you know, I have historically proposed removing this language from orders, but due to the specific circumstances related to the Permian Basin and this area in particular, I propose to add it to this order. Due to this proposed addition, ordering paragraph 13 should be deleted.

- OP. Oncor and AEP Texas are be permitted to deviate from the approved route in any instance in which the deviation would be more than a minor deviation, but only if the following two conditions are met. First, Oncor and AEP Texas must receive consent from all landowners who would be affected by the deviation regardless of whether the affected landowner received notice of or participated in this proceeding. Second, the deviation must result in a reasonably direct path toward the terminus of the line and not cause an unreasonable increase in cost or delay the project. Unless these two conditions are met, this paragraph does not authorize Oncor and AEP Texas to deviate from the approved route.

General

Finally, I propose delegating to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.